

Adopted	Rejected
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## COMMITTEE REPORT

YES:	12
NO:	0

### MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred House Bill 1163, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1       Page 1, line 2, delete "JULY 1, 2010]:" and insert "UPON
- 2       PASSAGE]:".
- 3       Page 1, delete lines 15 through 17, begin a new paragraph and
- 4       insert:
- 5       **"(b) If the release of a person is ordered under subsection (a)(2)**
- 6       **after December 31, 2007:**
- 7       **(1) the records and other information of:**
- 8       **(A) the sentencing court;**
- 9       **(B) a juvenile court;**
- 10       **(C) a court of appeals; and**
- 11       **(D) the supreme court;**
- 12       **concerning the offense described in subsection (a) of which the**
- 13       **person was convicted shall be permanently sealed; and**
- 14       **(2) the court that ordered the release shall do the following**
- 15       **concerning records and information that were created as a**
- 16       **result of or are related to the offense described in subsection**

1           **(a) of which the person was convicted:**

2           **(A) Order the department of correction, each law**  
3           **enforcement agency, and any other entity that**  
4           **incarcerated, provided treatment for, or provided other**  
5           **services for the person released under subsection (a)(2) to**  
6           **destroy all records they possess concerning the person's:**

7               **(i) incarceration;**

8               **(ii) treatment; or**

9               **(iii) services.**

10          **(B) Order any state, regional, or local central repository**  
11          **for criminal history information:**

12               **(i) to send the person's records concerning or related to**  
13               **the offense to the court to be sealed under clause (C);**  
14               **and**

15               **(ii) not to place or retain any information concerning the**  
16               **person's arrest for or conviction of the offense in the**  
17               **state, regional, or local central repository.**

18          **(C) Seal any records the court possesses concerning:**

19               **(i) the offense; and**

20               **(ii) any proceeding related to the offense.**

21          **(c) Notwithstanding subsection (b), a law enforcement agency,**  
22          **prosecuting attorney, court, or person conducting journalistic or**  
23          **academic research may submit a written application to a court**  
24          **described in subsection (b)(1) or the court that ordered the release**  
25          **of a person under subsection (a)(2) to gain access to any records**  
26          **that were sealed under subsection (b). If a person who submits a**  
27          **written application under this subsection shows good cause for the**  
28          **unsealing of the records described in subsection (b), the court**  
29          **described in subsection (b)(1) or court that ordered the release of**  
30          **the person under subsection (a)(2) shall:**

31               **(1) order that the records be unsealed; and**

32               **(2) allow the person who submitted the written application to**  
33               **have access to the records.**

34          **If a court orders that records be unsealed under this subsection,**  
35          **the court shall order that the records be resealed at the earliest**  
36          **possible time after the reasons for unsealing the records cease to**  
37          **exist.**

38          **(d) If a person whose records are sealed under subsection (b)**

1 brings a civil action that might be defended with the contents of the  
2 records:

- 3 (1) the defendant is presumed to have a complete defense to  
4 the action; and  
5 (2) the plaintiff, to recover in the action, must show that the  
6 contents of the sealed records would not exonerate the  
7 defendant.

8 If the plaintiff in the action denies the existence of the records, the  
9 defendant may prove the existence of the records in any manner  
10 compatible with the law of evidence.

11 (e) If a court orders that a person's records be sealed under  
12 subsection (b), the person:

- 13 (1) may obtain a copy of the court order;  
14 (2) shall be treated for all purposes as if the person had not  
15 been arrested for or convicted of the offense described in  
16 subsection (a) that is recorded in the sealed records; and  
17 (3) may legally state on an application for employment or any  
18 other document that the person has not been arrested for or  
19 convicted of the offense described in subsection (a) that is  
20 recorded in the sealed records.

21 SECTION 2. An emergency is declared for this act."

22 Delete page 2.

(Reference is to HB 1163 as introduced.)

and when so amended that said bill do pass.

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Representative Pierce